emission limitations were exceeded due
to the emergency. This notice fulfills
the requirement of paragraph (a)(5)(ii)
of this section. This notice must con-
tain a description of the emergency,
any steps taken to mitigate emissions,
and corrective actions taken.
(4) In any enforcement proceeding,
the permittee seeking to establish the
occurrence of an emergency has the
burden of proof.

§ 71.26 Permit issuance, reopenings,
and revisions.
(a) Action on application. (1) A permit
or permit revision may be issued only
if all of the following conditions have
been met:
(i) The Administrator has received a
complete application for a permit or
permit revision;
(ii) The requirements for public par-
ticipation under §71.27 have been fol-
lowed; and
(iii) The conditions of the proposed
permit or permit revision meet all the
requirements of §71.25 and provide for
compliance with an alternative emis-
sion limitation reflecting the emis-
sions reduction which qualified the
early reductions source for a compli-
ance extension under part 63, subpart
D, of this chapter.
(2) The Administrator will take final
action on each permit application (in-
cluding a request for permit revision)
within 12 months after receiving a
complete application, except that final
action may be delayed where an appli-
cant fails to provide additional infor-
mation in a timely manner as re-
quested by the Administrator under
§71.24(c).
(3) The Administrator will promptly
provide notice to the applicant of
whether the application is complete.
Unless the Administrator requests ad-
ditional information or otherwise noti-
fies the applicant of incompleteness
within 45 days of receipt of an applica-
tion, the application shall be deemed
complete. For revisions that qualify as
administrative amendments and are
processed through the procedures of
paragraph (c) of this section, a com-
pleteness determination need not be
made.
(4) If a source submits a timely and
complete application for permit
issuance, the source’s failure to have a
title V permit for purposes of any re-
quirements under section 112 per-
taining to the early reductions source
is not a violation of this part until the
Administrator takes final action on
the permit application. This protection
shall cease to apply if, subsequent to
the completeness determination made
pursuant to paragraph (a)(3) of this sec-
tion, and as required by §71.24(d), the
applicant fails to submit by the dead-
line specified in writing by the Admin-
istrator any additional information
identified as being needed to process
the application.
(b) Permit renewal and expiration. (1) Permits issued under this subpart shall
not be renewed. Permit renewal for ex-
piring permits issued under this sub-
part shall be accomplished according
to the requirements of title V of the
Act for comprehensive permits for the
facility containing the early reduc-
tions source.
(2) Except as specified in paragraph
(b)(3) of this section, permit expiration
terminates the early reductions
source’s right to operate.
(3) If, consistent with the require-
ments of title V of the Act, a timely
and complete application for a com-
prehensive title V permit for the facil-
ity containing the early reductions
source has been submitted but the per-
mitting authority has failed to issue or
deny the comprehensive permit prior
to expiration of a permit issued under
this subpart, then the existing permit
for the early reductions source shall
not expire until the comprehensive
title V permit for the facility has been
issued or denied.
(c) Administrative permit amendments.
(1) An “administrative permit amend-
ment” is a permit revision that:
(i) Corrects typographical errors;
(ii) Identifies a change in the name,
address, or phone number of any person
identified in the permit, or provides a
similar minor administrative change
at the source;
(iii) Requires more frequent moni-
toring or reporting by the permittee;
(iv) Allows for a change in ownership
or operational control of an early re-
ductions source where the permitting
authority determines that no other
change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the permitting authority; or

(v) Incorporates any other type of change which the Administrator has determined to be ministerial in nature and, therefore, similar to those in paragraphs (c)(1)(i) through (c)(1)(iv) of this section.

(2) Administrative permit amendment procedures. Administrative permit amendments may be made to a permit issued under this subpart using the following procedures:

(i) The source shall submit to the Administrator an application containing a proposed addendum to the source’s permit. The application shall demonstrate how the proposed change meets one of the criteria for administrative amendments set forth in paragraphs (c)(1)(i) through (c)(1)(iv) of this section, and include certification by the responsible official consistent with §71.24(f) that the change is eligible for administrative amendment procedures. The addendum shall:

(A) Identify the terms of the part 71, subpart B permit the source proposes to change;

(B) Propose new permit terms consistent with the provisions of this subpart applicable to the change;

(C) Designate the addendum as having been processed under the procedures of this paragraph (c); and

(D) Specify that the addendum will be effective 60 days from the date of the Administrator’s receipt, unless the Administrator disapproves the change within such period.

(ii) The Administrator will allow the source to implement the requested change immediately upon making all required submittals, including the proposed addendum.

(iii) The proposed addendum will become effective 60 days after the Administrator receives the submittal, provided the Administrator has not disapproved the request in writing before the end of the 60-day period. The Administrator shall record the change by attaching a copy of the addendum to the part 71, subpart B permit.

(iv) If the Administrator disapproves the change, he or she shall notify the source of the reasons for the disapproval in a timely manner. Upon receiving such notice, the source shall comply with the terms of the permit that it had proposed to change, and thereafter the proposed addendum shall not take effect.

(v) The process in this paragraph (c) may also be used for changes initiated by the Administrator that meet the criteria under paragraphs (c)(1) (i), (ii), and (iv) of this section. For such changes, the Administrator will notify the source of the proposed change and its effective date, and shall attach a copy of the change to the existing permit. On the effective date of the proposed change, the source shall comply with the provisions of the proposed change.

(vi) The permit shield under §71.25(d) may not extend to administrative amendments processed under this paragraph (c)(2).

(d) Permit revision procedures—(1) Criteria. Permit revision procedures shall be used for applications requesting permit revisions that do not qualify as administrative amendments. Nothing in this paragraph (d) shall be construed to preclude the permittee from making changes consistent with this subpart that would render existing permit compliance terms and conditions irrelevant.

(2) Permit revisions shall meet all requirements of this subpart, including those for applications, public participation, and review by affected States, as they apply to permit issuance. The Administrator will complete review on permit revisions within 9 months after receipt of a complete application.

(e) Reopening for cause. (1) Each issued permit shall include provisions specifying the conditions under which the permit will be reopened. A permit shall be reopened and revised under any of the following circumstances:

(i) The Administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emission limits or other terms or conditions of the permit.
(ii) The Administrator determines that the permit must be revised to assure compliance with the alternative emission limitation.

(2) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists.

(3) Reopenings under paragraph (e)(1) of this section shall not be initiated before a notice of such intent is provided to the early reductions source by the Administrator. Such notice will be provided at least 30 days in advance of the date that the permit is to be reopened, except that the Administrator may provide a shorter time period in the case of an emergency.

(f) EPA review under State programs for issuing specialty permits. (1) If the Administrator approves a State program for the implementation of this subpart, the State program shall require that the Administrator receive a copy of each permit application (including any application for permit revision) each proposed permit, and each final permit issued pursuant to this subpart. The State program may require that the applicant provide a copy of any permit application directly to the Administrator.

(2) The Administrator will object to the issuance of any proposed permit determined by the Administrator not to be in compliance with requirements under this subpart or part 63 of this chapter. If the Administrator objects in writing within 45 days of receipt of a proposed permit and all necessary supporting documentation, the State shall not issue the permit.

(3) Any EPA objection to a proposed permit will include a statement of the Administrator’s reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections. The Administrator will provide the permit applicant a copy of the objection.

(4) Failure of the State to do any of the following also shall constitute grounds for an objection:

(i) Comply with paragraph (f)(1) of this section;

(ii) Submit any information necessary to review adequately the proposed permit; or

(iii) Process the permit under procedures approved to meet paragraph (f) of this section.

(5) If the State fails, within 90 days after the date of an objection under paragraph (f)(2) of this section, to revise and submit a proposed permit in response to the objection, the Administrator will issue or deny the permit in accordance with the requirements of this subpart.

(6) Public petitions to the Administrator. Within 60 days after expiration of the Administrator’s 45-day review period, any person may petition the Administrator in writing to make an objection. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for and consistent with §71.27, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this paragraph, the permitting authority shall not issue the permit until EPA’s objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an objection. If the permitting authority has issued a permit prior to receipt of an EPA objection under this paragraph, the Administrator will revise, terminate, or revoke such permit, and shall do so consistent with the procedures in 40 CFR 70.7(g)(4) or (g)(5)(i) except in unusual circumstances, and the permitting authority may thereafter issue only a revised permit that satisfies EPA’s objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.